

**Appln No. 09/997,264**

**Amdt date September 27, 2004**

**Reply to Office action of March 26, 2004**

**REMARKS/ARGUMENTS**

Claims 1-10 and 13-16 are pending in this application, of which claim 1 is independent. Claims 1, 2, 4, 5, and 8-10 have been amended. Claims 13-16 have been added. The amendments and new claims add no new matter and find full support in the application as originally filed. In view of the above amendments and following remarks, Applicant respectfully requests reconsideration and a timely indication of allowance.

**Request for Acknowledgment of Receipt of Priority Documents**

On April 22, 2002, Applicant submitted a certified copy of a priority document (French Patent Application No. 0015516, which was filed on November 30, 2000) to the U.S. Patent Office. Applicant requests that the Examiner acknowledge that the Office has received this priority document (e.g., on FORM PTO-326) or notify Applicant that the Office has not received this document.

**Rejections Under 35 U.S.C. § 103(a)**

The Examiner has rejected claims 1-10 under 35 U.S.C. § 103(a) as allegedly being unpatentable over GB 1593738 (GB '738). Applicant respectfully traverses this rejection. Claim 1 is directed to an installation for a circulation of part-carrying pallets, comprising a support frame comprising "at least one vertical frame arrangement comprising a plurality of standard profile members rigidly welded together to form a rigid mecano-welded structure." The mecano-welded structure of the vertical frame arrangement provides a rigid structure having a high level of resistance to vibrations and the like due to the

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high speed and high level of acceleration of the pallets supported thereby.

The Examiner states that GB '738 discloses "a support frame for supporting modules for circulation of the pallets, the support frame comprises at least one vertical frame arrangement formed by a **rigid structure** (emphasis added) from standard profile members" (Office action, page 2, paragraph 1.) By stating that the vertical frame arrangement of GB '738 is formed by a **rigid structure**, the Examiner seems to concede that GB '738 does not disclose "at least one vertical frame arrangement comprising a plurality of standard profile members **rigidly welded together to form a rigid mecano-welded structure** (emphasis added) as recited by claim 1.

Instead the Examiner states that claim 1, as submitted by the Applicant in an Amendment dated November 17, 2003, recites a vertical frame arrangement "formed by rigid mecano-welded structure from standard profile members" (Office action, page 2, paragraph 1.) The Examiner stated that this limitation was in the form of a product by process claim and that in such claims patentability is based on the product itself, not the process.

Applicant respectfully submits that claim 1, as currently amended, is not a product by process claim and that the claim element of "at least one vertical frame arrangement comprising a plurality of standard profile members rigidly welded together to form a rigid mecano-welded structure" is a positively recited claim element that must be considered in determining the patentability of claim 1. Nowhere does GB '738 disclose, teach

**Appln No. 09/997,264**

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or suggest such a claim element. As such, GB '738 does not render claim 1 obvious.

Claim 1 also recites "at least two boxes each comprising a plurality of standard profile members **rigidly welded together to form a mecano-welded structure** (emphasis added)." Again, the mecano-welded structure of the boxes provides rigid structures that have high levels of resistance to vibrations and the like due to the high speed and high level of acceleration of the pallets supported thereby.

Although the Examiner states that "the limitation of 'boxes having a lower portion provided [with] adjustable feet for adjusting a horizontal positioning of the upper surfaced portion,'...is well know in the art" (Office action of March 26, 2004, page 2, paragraph 1), the Examiner makes no mention of the prior art disclosing, teaching or suggesting "at least two boxes each comprising a plurality of standard profile members **rigidly welded together to form a mecano-welded structure**" (emphasis added) as recited in claim 1. As such, the prior art made of record, and particularly GB '738, does not render claim 1 obvious.

Claims 2-10 depend from claim 1. Claim 1 is now believed to be in condition for allowance over GB '738. As such, Applicant submits that claims 2-10 are also allowable over GB '738 as being dependent from an allowable base claim and for the additional limitations they contain therein.

For example, claim 2 recites that the "plurality of standard profile members of said vertical frame arrangement and said plurality of standard profile members of said boxes are

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commercially available profile members of steel of type NIP, wherein NIP stands for Normalized I Profile." The Examiner contends that the above quoted limitation constitutes a product by process claim. However, Applicant respectfully submits that the profile members of claim 2 are positively recited as "profile members of steel of type NIP, wherein NIP stands for Normalized I Profile." The Applicant fails to see how this limitation constitutes a product by product.

Nowhere does GB '738 disclose, teach or suggest the claimed "plurality of standard profile members of said vertical frame arrangement and said plurality of standard profile members of said boxes are commercially available profile members of steel of type NIP, wherein NIP stands for Normalized I Profile" as recited in claim 2. Although such profile members are common in the building constructions, nowhere does the prior art of record disclose, teach or suggest the use of such profile members in the industry relevant to the claimed invention. As such, for this additional reason GB '738 does not render claim 2 obvious. Accordingly, Applicant respectfully requests that the rejection of claims 1-10 over GB '738 under 35 U.S.C. § 103(a) be withdrawn.

#### **New Claims**

New claims 13-16 have been added. Each of claims 13-16 depend from claim 1. Applicant respectfully submits that Claim 1 is now in condition for allowance. As such, Applicant submits that claims 13-16 are also in condition for allowance as being

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dependent from an allowable base claim and for the additional limitations they contain therein.


For example, each of claims 13-16 recite configurations of the vertical frame arrangement and/or configurations of the boxes that are not disclosed by the prior art made of record. As such, for these additional reasons, claims 13-16 are in condition for allowance.

In view of the above amendments and remarks, Applicant respectfully submits that claims 1-10 and 13-16 are in condition for allowance, and a timely indication of allowance is respectfully requested. If there are any remaining issues that can be addressed by telephone, Applicant invites the Examiner to contact the undersigned at the number indicated.

Respectfully submitted,

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